

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

TRUSTEES of the CHICAGO REGIONAL
COUNCIL OF CARPENTERS PENSION
FUND, et al.

Plaintiffs,

Case No. 08 C 791

Judge Darrah

V.

DOUGLAS G. PAICE individually and d/b/a
DRYWALL, INC., a sole proprietorship

Defendant.

MOTION FOR DEFAULT JUDGMENT

Plaintiffs, by its attorney, Daniel P. McAnally, move this Honorable Court to enter Judgment by Default according to Fed. R. Civ. P. 55 for Defendant's failure to appear, answer or otherwise plead. Further, in support of this Motion the Plaintiffs state:

1. Plaintiffs filed their complaint on February 6, 2008 and the summons and complaint was served on Douglas G. Paice on February 21, 2008 via the Process Server. **(Exhibit A, affidavit of service)**

2. The Defendant has failed to appear, answer or otherwise plead within the time allowed by the Fed. R. Civ. P.

3. At all times relevant to this action, the Defendant has been bound by the provisions of a Collective Bargaining Agreement and the Trust Agreements which created the Trust Funds. Pursuant to the provisions of the Trust Agreements and the Collective Bargaining Agreement, the Defendant is required to submit monthly reports to the Trust Funds which list the number of hours worked by the Defendant's employees and to pay the ERISA contributions based on those hours.

4. The Defendant failed to submit the monthly reports despite several requests to do so. As a result an estimate was performed based upon the prior 3 month reporting period average. As a result the ERISA contributions claimed to be owed is \$22,330.88 for the months of June 2007 through December 2007. The Defendant also failed to remit the union dues it withheld from the employees' wages. The amount of estimated dues withheld is \$1,618.56 for the period June 2007 through December 2007. **(Exhibit B, affidavit of James Rosemeyer)**

5. The Defendant owes liquidated damages on the unpaid ERISA contributions in the amount of \$2,055.97 for the period June 2007 through December 2007 pursuant to the Collective Bargaining Agreements, the Trust Agreements and 29 U.S.C. §1132(g)(2)(C)(ii). **(Exhibit B)**

6. The Defendant owes the sum of \$1,513.75 for necessary and reasonable attorney fees and costs of \$405.00 which are collectible under the terms of the Collective Bargaining Agreement, the Trust Agreements and 29 U.S.C. §1132(g)(2)(D). **(Exhibit C, affidavit of Daniel P. McAnally)**

WHEREFORE, Plaintiffs pray that their motion for judgment by default be granted in the amount of \$27,924.16.

Respectively submitted,

s/ DANIEL P. McANALLY
Attorney for Plaintiffs

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